THE HON'BLE SRI JUSTICE C.V. RAMULU

Friday, 20th day of July,2007

W.P.No.11539 of 2004

Between:-

The Managing Director,
Singareni Collieries Cooperative
Central Stores Limited,
Kothagudem, Khammam District … Petitioner

and

The II Appellate Authority under
Section 48(3) of the A.P. Shops and
Establishments Act,1988 and the
Dy.Commissioner of Labour,
Warangal and others … Respondents

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ORAL ORDER:

This Writ Petition is filed seeking a Certiorari to call for the records relating to the Order dated 19-11-2003 passed by the 1st respondent in S.A.No.1 of 2002 confirming the Order dated 7-11-2001 passed by the 2nd respondent in S.E.No.15 of 2000 and quash the same as arbitrary and illegal.

Petitioner is the employer and the 3rd respondent is the employee of Singareni Collieries Cooperative Central Stores Limited, Kothagudem, Khammam District. While so, he was removed from service after conducting a Departmental enquiry into certain irregularities purported to have been committed by him. The irregularities sought to be enquired into were, in fact, subject matter of arbitration proceedings before the Arbitrator under Section 61 of the Andhra Pradesh Cooperative Societies Act,1964 and the Arbitrator, who, by his Award dated 13-11-1995 in Claim No.3/94 held that the respondent-employee is not liable for payment of Rs.94,107/- since he has not caused any loss to the Society. Aggrieved by the same, petitioner-employer filed an appeal being C.T.A.No.4 of 1996 before the A.P. Cooperative Tribunal, Hyderabad. The Tribunal, after an elaborate consideration, confirmed the Order passed by the Arbitrator. It seems, without waiting for the result of the arbitration proceedings and unmindful of the Order passed by the Appellate Tribunal under the

Andhra Pradesh Cooperative Societies Act,1964, simultaneously the employee was proceeded with departmentally and was removed from service. Challenging the same, the respondent-employee carried the matter in appeal before the Authority under the Andhra Pradesh Shops and Establishments Act,1988. The Authority held that when the statutory authority under Section 61 of the Andhra Pradesh Cooperative Societies Act,1964 already conducted enquiry and held that the respondent-employee is not liable, which was upheld by the Tribunal, holding the 3rd respondent guilty departmentally does not arise. It is not but showing disrespect to the authorities, which have decided the matter and attained finality in the eye of law and, therefore, directed reinstatement of the employee with continuity of service and back wages in S.E.No.15 of 2000, dated 7-11-2001; aggrieved thereby, petitioner herein carried the matter before the second appellate authority under Section 48(3) of the Andhra Pradesh Shops and Establishments Act,1988. The second appellate authority, after detailed consideration of the entire material placed before it, has concurred with the findings reached by the Authority under Section 48 of the A.P. Shops and Establishments Act,1988 and the Assistant Commissioner of Labour, Khammam and felt that the findings of the lower authority do not suffer from any material infirmity and the order does not require its interference and dismissed the appeal. Questioning the same, the present Writ Petition is filed.

I am of the opinion that the subject matter before the Arbitrator under Section 61 of the Andhra Pradesh Cooperative Societies Act,1964 and the departmental proceedings were one and the same and the statutory authority has held that the respondent-employee was not liable for payment of Rs.94,107/- and absolutely, no ground was made out against him. This was confirmed by the appellate authority

i.e. A.P. Cooperative Tribunal. In spite of there being such conclusive decisions made by the statutory authorities, unmindful of those judgments, the petitioner has passed orders removing the employee from service. Rightly, the first appellate Authority and the second appellate Authority have found that this is nothing but showing disrespect to the conclusions reached by the statutory authorities and such an enquiry and findings recorded by the disciplinary authority in removing the 3rd respondent from service of the petitioner-society were arbitrary and illegal. I am of the view that the authorities below have not committed any error in passing such an Order, calling for interference of this Court under Article 226 of the Constitution of India. The Writ Petition is devoid of any merit and is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

20-7-2007

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